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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/659,816 | 09/11/2003 | David B. Lantz | BOR03 P-104 | 5260 |

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EXAMINER

SHAPIRO, JEFFERY A

ART UNIT PAPER NUMBER

3653

DATE MAILED: 06/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/659,816

Applicant(s)

LANTZ ET AL.

Examiner

Jeffrey A. Shapiro

Art Unit

3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/18/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 28-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 28-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wike, Jr. et al (US 6,427,915 B1) in view of Nguyen (US 6,793,043 B2) and further in view of Hoar (US 5,131,499). Wike discloses a checkout counter with bagwell (60), extendible supports (56, 58 and 70) which are designed to be moved over the bagwell based upon implementation of either a checkout or a self-checkout configuration. Wike further discloses that the checkout apparatus has a front module (32) and a rear module (28).

Wike does not expressly disclose, but Nguyen discloses using a rotating bagwell (212 or 309) having multiple positions for bags in a checkout counter (300) having a front module (22) and a rear module (28). Note that Nguyen discloses at col. 1, lines 45-55 that module (28) is "optional", implying that it is optional based on the configuration required to efficiently process items through the checkout. Note also that Nguyen's turntable (212) has a table (318) on which it is supported, and which moves in a horizontal plane (i.e., horizontally), in a rotating manner, from a position located adjacent a clerk to a position adjacent a customer. See figure 3B and flow chart of figure 4, element (414).

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Wike does not expressly disclose, but Hoar discloses a rotating bag turret (14) with bag supports (34), said turret also adjusting vertically to various heights so as to accommodate different conveyor surface locations. See Hoar, col. 2, line 49-col. 3, line 19.

Wike, Nguyen and Hoar are considered to be analogous art because they all concern checkout counter apparatus' *1*

At the time of the invention, it would have been obvious to one of ordinary skill in the art to have used the rotating bagwell support of Nguyen in place of Wike's stationary, non-rotating bag supports.

The suggestion/motivation would have been to "increase productivity, decrease customer waiting, and increase customer satisfaction through greater control of the bagging process." See Nguyen, col. 2, lines 31-52, and particularly lines 49-52. Note also that Wike's extensions (56), (58) and (70) suggest a movable cover over the bagwell area and that Wike's bagwell (60) suggests a need for increasing throughput by allowing more items to be bagged quickly and efficiently. This need is met by Nguyen's rotating bagwell support which allows a user to simply rotate the support to an empty bag when a particular bag position is full.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to have made the height of the bagwell support of Wike adjustable.

The suggestion/motivation would have been to make the height of the bagwell adjust to the height of the conveyor surface. Further, one ordinarily skilled would recognize that in view of the use of the extensible conveyor (56, 58 and 70) of Wike and

the teaching of Hoar for adjusting the height of the bagwell, it would have been obvious to incorporate an adjustable height feature in Wike's bagwell to allow the bagwell to be adequately stowed below Wike's extensible conveyor portion.

3. Claims 28-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wike, Jr. et al (US 6,427,915 B1) in view of Hoar (US 5,131,499). Wike discloses a checkout counter with bagwell (60), extendible supports (56, 58 and 70) which are designed to be moved over the bagwell based upon implementation of either a checkout or a self-checkout configuration. Wike further discloses that the checkout apparatus has a front module (32) and a rear module (28).

Wike does not expressly disclose, but Hoar discloses using a rotating bagwell (14) having multiple positions for bags in a checkout counter (10). Note also that Hoar's device has a table (20) on which it is supported, and which moves in a horizontal plane (i.e., horizontally), in a rotating manner, from a position located adjacent a clerk to a position adjacent a customer. See figures 2 and 3 of Hoar. Wike does not expressly disclose, but Hoar further discloses a rotating bag turret (14) with bag supports (34), said turret also adjusting vertically to various heights so as to accommodate different conveyor surface locations. See Hoar, col. 2, line 49-col. 3, line 19.

Wike and Hoar are considered to be analogous art because they all concern checkout counter apparatus'

At the time of the invention, it would have been obvious to one of ordinary skill in the art to have used the height-adjustable rotating bagwell support of Hoar in place of Wike's stationary, non-rotating bag supports.

The suggestion/motivation would have been to "significantly speed and facilitate the store checkout procedure and provide other noteworthy benefits..." as well as to make the height of the bagwell adjust to the height of the conveyor surface. See Hoar, col. 1, lines 36-39. Note also that Wike's extensions (56), (58) and (70) suggest a movable cover over the bagwell area and that Wike's bagwell (60) suggests a need for increasing throughput by allowing more items to be bagged quickly and efficiently. This need is met by Hoar's rotating bagwell support which allows a user to simply rotate the support to an empty bag when a particular bag position is full.

Further, one ordinarily skilled would recognize that in view of the use of the extensible conveyor (56, 58 and 70) by Wike and the teaching of Hoar for adjusting the height of the bagwell, it would have been obvious to incorporate an adjustable height feature in Wike's bagwell to allow the bagwell to be adequately stowed below Wike's extensible conveyor portion.

Response to Arguments

4. Applicant's arguments with respect to Claims 28-42 have been considered but are moot in view of the new ground(s) of rejection. The combination of Wike and Hoar, described above, meets the limitations of Applicant's new claims, including the vertical movability of the bag support.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Johnson et al "890 is cited as disclosing a stand with vertical adjustability using a detent-like structure-see figure 4. McDonald '144 is cited as disclosing both horizontal and vertical linear adjustability, as shown in figure 1. Martin et al '449 is cited as a bagwell device with vertical adjustability in order to adjust for different-sized bags. See col. 1, lines 28-31. Valesquez '264 and Shelton '145 are cited as a bag support assembly with height adjustability.

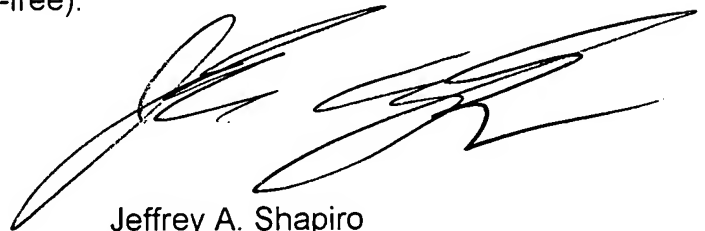
6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey A. Shapiro whose telephone number is (571)272-6943. The examiner can normally be reached on Monday-Friday, 9:00 AM-5:00 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald P. Walsh can be reached on (571)272-6944. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jeffrey A. Shapiro
Examiner
Art Unit 3653

June 12, 2005



DONALD P. WALSH
SUPERVISORY PATENT EXAMINER
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